

U.S. Appl. No. 10/720,512
Docket No. 1999B060/3
Reply to Notice of Non-Compliant Amdt. of 11/09/2006
Response dated December 4, 2006

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REMARKS

Reconsideration of this application is respectfully requested. Applicants believe that none of the amendments presented herein constitute new matter.

Claims 14-16 and 51-58 are currently pending.

Claims 14 and 15 have been amended.

Claims 52-58 have been newly added.

Claim Rejections

35 USC § 112

(a) The Examiner has rejected claim 14 (and claims 15, 16 and 51 by dependency) because "the scope of 'MFR' cannot be determined" Enclosed herewith, Applicants submit a Declaration of Jean M. Tancrede under 37 CFR § 1.132. Jean M. Tancrede is one of the inventors of the subject matter described and claimed in this application. He participated in the testing of the MFR in accordance with the disclosure of the claimed invention. The Declaration states that using ASTM D1238, the MFR was determined under a temperature condition of 230°C, as stated in the specification, and under a load condition of 2.16 kg. It is customary in this area of technology to use a load condition of 2.16 kg. One of ordinary skill in the art would know and be aware of this custom and be apprised, without speculation or undue experimentation, that the scope of the patent claims at issue include testing at load conditions of 2.16 kg. Applicants believe that this Declaration should serve to make the MFR limitation more clearly understood. Thus, Applicants respectfully request withdrawal of this rejection.

(b) The Examiner rejected claims 14, 15, 16 and 51 because the phrase "propylene sequences" is held to be indefinite. In response to the Examiner's rejection, Applicants have either deleted the propylene sequence limitation or specified a sequence length in the claims. Applicants have amended claims 14 and 15, as shown herein, to delete the "propylene sequences" limitation. New claims 52-57 have been added and cite

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propylene sequences with the specified length of "pentad." New claim 56 is added to incorporate the previous claim 14 and cites propylene sequences with the specified length of pentad.

Support for these amendments can be found, on page 8, lines 16-19 of the specification. In these lines, Applicants describe a random copolymer with a low molecular weight copolymer containing, "propylene units in an amount of 80% or above, preferably more than 90%, with the propylene units preferably being predominantly isotactic sequences (more than 80% of the units being isotactic pentads), as measured by C-13 NMR." Applicants' description of "predominantly" is further clarified as being "more than 80%" and "isotactic sequences" further clarified as "isotactic pentads." Also in this section, Applicants further describe that the measurements are to be taken using C-13 NMR. Therefore, the "propylene sequence" limitation of the claims, as amended, has meaning. Applicants respectfully request withdrawal of this rejection.

35 USC §102(b)

The Examiner has rejected claims 14-16 and 51 as being anticipated by *Nakagawa et al.* (EP 870 794, hereinafter "*Nakagawa*"). *Nakagawa's* Example 1 allegedly discloses the synthesis of a 40% crystalline propylene/butene copolymer comprising 76% propylene in the presence of a metallocene catalyst, and having a MFR of 20 g/10 min, which is then used as a component in a hot melt adhesive layer in a laminated film composition. The Examiner states that Applicants' previous amendment to the claims directed to MFR does not preclude the cited reference example because the claim does not state how the MFR was measured. As discussed above, Applicants have submitted a Declaration specifying the test conditions for determining MFR. The *Nakagawa* reference does not disclose polymers having a MFR as recited in the claims. Additionally, nowhere in the *Nakagawa* reference is it suggested that it would be desirable to modify the polymer such that the MFR is greater than 250 dg/min. Claims 14-16 and 51, as well as new claims 52-58, would not be obvious in light of *Nakagawa*.

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Thus, for at least this reason, Applicants respectfully request withdrawal of this rejection and reconsideration of these claims.

Although Applicants feel it is not material to the patentability of the invention, Applicants wish to correct a statement made in the January, 13, 2006 Response to Office Action and Request for Continued Examination. When Applicants stated "... 20 g/10 min (i.e. 2 dg/min) ..." the units were not converted correctly since 20 g/10min is equal to 20 dg/min, not 2 dg/min. However, regardless of the MFR of the disclosure being 2 or 20 dg/min, it still far out of the range of the claimed "greater than 250 dg/min." Therefore correction of this misstatement should have no bearing on patentability of the invention.

CONCLUSION


For at least the reasons stated above, Applicants believe the currently pending claims, as amended, are allowable. Withdrawal of the rejections is respectfully requested, and a notice of allowance is earnestly solicited.

Applicants invite the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been presented to the Examiner's satisfaction or if the Examiner believes it will assist or expedite his review of the case.

Respectfully submitted,

4 Dec 06

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